



January 18, 2021

By ECF

Judge Alvin K. Hellerstein
United States District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

The sentencing hearing is adjourned to May 3, 2021, at 2:30 p.m.

So ordered,
/s/ Hon. Alvin K. Hellerstein

RE: United States v. Wagner, 19-cr-437

Dear Judge Hellerstein:

Defendant Marc Lawrence respectfully requests the Court adjourn the sentencing date in this matter of February 1, 2021 for a period of approximately 90 days. No previous adjournments have been requested or ordered. The government (through AUSAs Jilan Kamal and Sagar Ravi) takes no position on this request.

On October 19, 2020, Mr. Lawrence pleaded guilty to three counts of a five-count indictment charging him and co-defendant David Wagner with securities and wire fraud. Mr. Lawrence has been on release since his arraignment in the Middle District of Florida on June 14, 2019. Mr. Lawrence has complied with all the conditions of his release.

The continuing COVID-19 pandemic poses substantial risks to Mr. Lawrence and others who would travel to New York to be physically present for his sentencing. Because of the seriousness of the subject matter, and the importance to him personally, Mr. Lawrence wants to be present in person to be sentenced. Because this adjournment would result in no prejudice to the government and would likely increase in the safety of in-person proceedings in this case, it is respectfully requested the Court grant the application.

I. The COVID-19 Pandemic Continues

COVID-19 cases continue to spread dramatically around the United States. According to the Centers for Disease Control and Prevention there were 1,551,850 new cases in the United States over the last seven days.¹ More than 120,000 people are currently hospitalized in the United

¹ <https://covid.cdc.gov/covid-data-tracker/>

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States with COVID-19.² The total number of new cases in New York City in the last seven days is reportedly 41,691.³ Indicators suggest that these numbers are going to get worse before improving in the late spring and early summer with the vaccination of the U.S. population.

In response to this pandemic, the United States District Court for the Southern District of New York has been closed to almost all in-person proceedings for the past several months. On November 30, 2020, the Court issued Standing Order M-10-468 (CM), suspending all in-person proceedings in the Southern District of New York, with few exceptions, through January 15, 2021. On January 6, 2021, the Court issued a First Amended Standing Order, M-10-468 (CM), extending the general prohibition on in-person proceedings, including sentencings, through February 12, 2021. This period includes the date of the sentencing in this matter, February 1, 2021.

II. Because of Their Age and Medical Status, Mr. Lawrence and His Supporters Are at Heightened Risk Should They Contract COVID-19

The most significant risk factor for complications from COVID-19 is age: “In the U.S., about 80% of deaths from the disease have been in people age 65 and older. Risks are even higher for older people when they have underlying health conditions.”⁴

Mr. Lawrence is sixty-seven years old and takes a regimen of medications to compensate for brain surgery in 2008, which effectively disabled his pituitary gland. This significantly impacts his health and immune system. Friends and family of Mr. Lawrence who would attend his sentencing in-person, were it safe to do so, are similarly situated. Mr. Lawrence’s brother, Dr. Hal Lawrence, is seventy years old and recovering from stage 4 prostate cancer. He lives in Michigan. Mr. Lawrence’s partner, Mary Crownover, is fifty-four years old and suffers from multiple sclerosis which seriously impacts her immune system. She lives with Mr. Lawrence in Clearwater, Florida.

Air travel, such as that would be required for Mr. Lawrence to travel from Florida to New York City for sentencing, creates significant risks for COVID-19 exposure. “Airports, bus stations, train stations, and rest stops are all places travelers can be exposed to the virus through respiratory droplets or on surfaces. These are also places where it can be hard to keep your distance. In general, the longer you are around a person with COVID-19 (even if they do not have symptoms), the more likely you are to get infected.”⁵

While Mr. Lawrence would take every precaution possible in traveling to New York City and in quarantining prior to the date of sentence, there is no fully safe manner by which to make this trip. This point is underscored by the extensive and detailed protocol required for entry to

² <https://covidtracking.com/data/charts/us-currently-hospitalized>

³ https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days

⁴ <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-who-is-at-risk/art-20483301>

⁵ [https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-risk.html#:~:text=Some%20travel%20activities%2C%20like%20the,public%20facilities%20\(like%20restrooms\).](https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-risk.html#:~:text=Some%20travel%20activities%2C%20like%20the,public%20facilities%20(like%20restrooms).)

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courthouses in the Southern District of New York.⁶ Moreover, because of the substantial risks to his friends and family, Mr. Lawrence would not ask them to appear at his sentencing in-person were the Court to deny this application.

Other judges in this Court have granted similar applications for adjournments of sentencing to address the dangers of the COVID-19 pandemic. *See, e.g., United States v. Avenatti*, 19-cr-373 (PGG) (S.D.N.Y. Jan. 8, 2021); *United States v. Sharma*, 18-cr-340 (LGS) (S.D.N.Y. Oct. 16, 2020); *United States v. Gaffey*, 18-cr-693 (RMB) (S.D.N.Y. May 21, 2020).

III. Mr. Lawrence Will Appear in Court on February 1, 2021 if the Court Determines It Is Appropriate for Him to Do So

The Federal Rules of Criminal Procedure, as amended by the CARES Act and implemented by the Judicial Conference of the United States and the Administrative Office of the U.S. Court, permit sentences to be imposed remotely. Indeed, the Court very recently granted a request from Mr. Lawrence's co-defendant, David Wagner, to be sentenced remotely by video. *See United States v. Wagner*, 19-cr-437 (AKH) (S.D.N.Y. Jan. 8, 2021).

Notwithstanding the availability of remote sentencing, given the gravity of the matters at issue and the importance of this sentence to him personally, Mr. Lawrence does not seek to be sentenced remotely. In the event that the Court denies this application, Mr. Lawrence will appear for sentencing in-person on February 1, 2021.

Thank you for considering this application.

Sincerely,



Andrew St. Laurent

cc: AUSAs Jilan Kamal and Sagar Ravi (by ECF)

⁶ On November 10, 2020, the United States District Court for the Southern District of New York issued a new "SDNY Protocol for Domestic Travelers." That protocol prohibits individuals from entering the courthouse if they have been in a state other than New York, Connecticut, New Jersey, Massachusetts, Pennsylvania, and Vermont in the previous 14 days for more than 24 hours, unless they meet certain criteria. The practical effect of this protocol is that Mr. Lawrence, who resides in Clearwater, Florida, would have to travel to, and remain in, New York for at least eight days prior to the sentencing hearing to ensure that there is sufficient time to schedule the required testing. The complete COVID 19 protocol is here: <https://www.nysd.uscourts.gov/sites/default/files/2020-11/Entry%20Protocol%20for%20Domestic%20Travelers%2011-20.pdf> In addition, Mr. Lawrence would need to quarantine for an additional fourteen days upon his return to Florida, in compliance with the guidance applicable there.